

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the house principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

In 1972, the Florida Legislature delegated authority to local governments to administer occupational license tax programs. Local governments have since been authorized to levy occupational license taxes pursuant to ch. 205, F.S., the Local Occupational License Act (Act). The amount of the tax, and the occupations and businesses upon which the tax is imposed, are determined at the discretion of the local government within limitations established in the Act.

Under current law, a county or municipality may, by resolution or ordinance, impose an occupational license tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction. Licenses are sold by the tax collector beginning on August 1 of each year, are due and payable on or before September 30 of each year, and expire on September 30 of the succeeding year.

Currently, 368 of Florida's 404 municipalities, and 52 of Florida's 67 counties, have implemented some type of local occupational license tax program.¹

Although the local occupational license tax is intended to be purely revenue-producing in nature without regard to the competency of the person to whom the license is issued, the license has been utilized by some persons as proof of competency to perform various repairs and services. This bill specifies that "changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations."

Licensure Requirements

Section 205.194, F.S., prohibits local governments from issuing occupational licenses for professions regulated by the Department of Business and Professional Regulation (DBPR) without verifying that the person has satisfied DBPR requirements. Applicants are required to submit proof of registration, certification, or licensure issued by DBPR upon initial licensure in the jurisdiction. By August 1 of each year, DBPR is required to supply local officials with a list of the professions it regulates and persons that should not be allowed to renew their occupational license due to suspension, revocation, or inactivation of licensure, certification, or registration. DBPR currently regulates the following:

- certified public accountants and accounting businesses,
- alarm system contractors,
- asbestos consultants and contractors,
- athlete agents,
- auctioneers and their businesses,
- barbers and barber shops,
- building code administrators and inspectors,
- constructing contractors and constructing contracting businesses,
- community association managers,
- cosmetologists and cosmetology salons,

¹ Data provided by the Legislative Committee on Intergovernmental Relations

- electrical contractors,
- employee leasing,
- farm labor,
- geologists and geologist businesses,
- landscape architects and landscape architect businesses,
- pilots (harbor),
- surveyors and mappers and surveyor and mapper businesses,
- talent agencies, and
- veterinarians and veterinary establishments.

Section 205.023, F.S., prohibits the issuance of an occupational license to an applicant that does not provide proof of any applicable fictitious name registrations with the Division of Corporations in the Department of State.

Sections 205.1965, 205.1969, 205.1971, and 205.1973, F.S., require additional verification from pest control businesses, health studios and ballroom dance studios, businesses engaged in the selling of travel, and telemarketing businesses. These businesses must provide verification of licensure, registration, or exemption by the Department of Agriculture and Consumer Services before a local government may issue a local occupational license.

Section 205.196, F.S., requires pharmacies to produce a current permit from the Board of Pharmacy before a local government may issue a local occupational license.

Section 205.1965, F.S., requires that assisted living facilities must provide verification of licensure from the Agency for Health Care Administration before a local government may issue a local occupational license.

Effect of Proposed Changes

This bill changes the name of the Act from the “Local Occupational License Tax Act” to the “Local Business Tax Act”, and conforms the name change throughout the Act.

The bill also defines “receipt” to mean the document that is issued by the local governing authority which bears the words “Local Business Tax Receipt” and evidences that the person in whose name the document is issued has complied with the provisions of the Local Business Tax Act. The bill amends ch. 205, F.S., to provide that persons who pay occupational business taxes receive a “receipt” for payment rather than a “certificate”. The bill specifies that “changing the name of the item issued by local governments from occupational license tax to local business tax may eliminate some fraudulent misrepresentations.”

C. SECTION DIRECTORY:

Section 1: Amends s. 205.013, F.S., to reflect that the “Local Occupational License Tax Act” is renamed as the “Local Business Tax Act”.

Section 2: Amends s. 205.022, F.S., to revise and add definitions; and conform name changes.

Section 3: Amends s. 205.023, F.S., to conform name changes.

Section 4: Amends s. 205.0315, F.S., to conform name changes.

Section 5: Amends s. 205.032, F.S., to conform name changes.

Section 6: Amends s. 205.033, F.S., to conform name changes.

Section 7: Amends s. 205.042, F.S., to conform name changes.

Section 8: Amends s. 205.043, F.S., to conform name changes.

Section 9: Amends s. 205.045, F.S., to conform name changes.

Section 10: Amends s. 205.053, F.S., to conform name changes.

Section 11: Amends s. 205.0532, F.S., to conform name changes.

Section 12: Amends s. 205.0535, F.S., to conform name changes.

Section 13: Amends s. 205.0536, F.S., to conform name changes.
Section 14: Amends s. 205.0537, F.S., to conform name changes.
Section 15: Amends s. 205.054, F.S., to conform name changes.
Section 16: Amends s. 205.063, F.S., to conform name changes.
Section 17: Amends s. 205.064, F.S., to conform name changes.
Section 18: Amends s. 205.065, F.S., to conform name changes.
Section 19: Amends s. 205.162, F.S., to conform name changes.
Section 20: Amends s. 205.171, F.S., to conform name changes.
Section 21: Amends s. 205.191, F.S., to conform name changes.
Section 22: Amends s. 205.192, F.S., to conform name changes.
Section 23: Amends s. 205.193, F.S., to conform name changes.
Section 24: Amends s. 205.194, F.S., to conform name changes.
Section 25: Amends s. 205.196, F.S., to conform name changes.
Section 26: Amends s. 205.1965, F.S., to conform name changes.
Section 27: Amends s. 205.1967, F.S., to conform name changes.
Section 28: Amends s. 205.1969, F.S., to conform name changes.
Section 29: Amends s. 205.1971, F.S., to conform name changes.
Section 30: Amends s. 205.1973, F.S., to conform name changes.
Section 31: Provides that the bill takes effect January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Finance and Tax Committee adopted three amendments on March 31, 2006. The first amendment introduced whereas clauses into the bill to clarify that the intent of this bill is to simply change the name of the act and not to introduce any new taxes or fees. The second amendment changed the definition of certificate to ensure that the certificates issued will bear the words "Local Business Tax Certificate". The third amendment changed the effective date of the bill from July 1, 2006 to January 1, 2007.

On April 11, 2006, the Local Government Council adopted a strike-all amendment to change references to business tax "certificate" to business tax "receipt" in order to clarify that a person who pays occupational business taxes receives only a receipt for payment, not a certificate.